

SENATE RECORD VOTE ANALYSIS

106th Congress
1st Session

Vote No. 248

August 2, 1999, 5:50 p.m.
Page S-9985 Temp. Record

SWEEPSTAKES REFORM/Passage

SUBJECT: Deceptive Mail Prevention and Enforcement Act . . . S. 335. Final passage, as amended.

ACTION: BILL PASSED, 93-0

SYNOPSIS: As amended and passed, S. 335, the Deceptive Mail Prevention and Enforcement Act, will set standards for sweepstakes mailings and skill contest mailings, and will enact civil penalties for violations of those standards. Details are provided below.

- Sweepstakes mailings will be required to display, clearly and conspicuously, several disclaimers and consumer notices, including clear statement that no purchase is necessary to win and a statement that a purchase will not improve one's chances of winning (those two particular statements will also have to be "prominently" displayed). The disclaimers will have to appear on the solicitations, in the rules, and on the order forms. Mailings will also have to state the odds of winning, the value and the nature of the prizes, and the names and the addresses of the sponsors of the sweepstakes. Sweepstakes mailings will also be required to include all the rules and entry procedures for the contests. Mailings will be prohibited from describing any recipient as a "winner" unless the recipient has already won a prize.

- Skill contest mailings ("skill contest" means a puzzle, game, competition, or other contest in which a prize is awarded or offered, the outcome of which depends predominantly on the skill of the contestant, and a purchase, payment, or donation is required or implied to be required to enter the contest) will have to state all terms and conditions of the contests, including all the rules and entry procedures. Any skill contest will also have to disclose: the sponsor and the mailing address of the sponsor; the level and difficulty of each contest round or level; the maximum cost of entering all rounds or levels; the estimated number or percentage of entrants who will correctly solve the skill contest or the approximate number or percentage who correctly solved the past three skill contests conducted by the sponsor; the identity and description of the judges (if other than the sponsor); the method used in judging; the date by which the winner or winners will be determined and the date or process by which prizes will be awarded; and the value and nature of the prizes.

(See other side)

YEAS (93)				NAYS (0)		NOT VOTING (7)	
Republican (49 or 100%)		Democrats (44 or 100%)		Republicans (0 or 0%)	Democrats (0 or 0%)	Republicans (6)	Democrats (1)
Abraham	Hutchinson	Akaka	Kennedy			Bond ⁻²	Biden ^{-4AY}
Allard	Hutchison	Baucus	Kerrey			Domenici ⁻²	
Ashcroft	Inhofe	Bayh	Kerry			Hatch ^{-2AY}	
Bennett	Jeffords	Bingaman	Kohl			McCain ⁻²	
Brownback	Kyl	Boxer	Landrieu			Sessions ⁻²	
Bunning	Lott	Breaux	Lautenberg			Shelby ⁻²	
Burns	Lugar	Bryan	Leahy				
Campbell	Mack	Byrd	Levin				
Chafee	McConnell	Cleland	Lieberman				
Cochran	Murkowski	Conrad	Lincoln				
Collins	Nickles	Daschle	Mikulski				
Coverdell	Roberts	Dodd	Moynihan				
Craig	Roth	Dorgan	Murray				
Crapo	Santorum	Durbin	Reed				
DeWine	Smith, Bob (I)	Edwards	Reid				
Enzi	Smith, Gordon	Feingold	Robb				
Fitzgerald	Snowe	Feinstein	Rockefeller				
Frist	Specter	Graham	Sarbanes				
Gorton	Stevens	Harkin	Schumer				
Gramm	Thomas	Hollings	Torricelli				
Grams	Thompson	Inouye	Wellstone				
Grassley	Thurmond	Johnson	Wyden				
Gregg	Voinovich						
Hagel	Warner						
Helms							

EXPLANATION OF ABSENCE:

1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:

AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

- The current law regarding "Government look-alike" mailings will be strengthened by prohibiting mailings that imply a connection to, approval by, or endorsement from the Federal Government through the misleading use of a seal, insignia, reference to the Postmaster General, citation to a Federal law, or any other term or symbol unless the mailings carry true disclaimers. New Federal standards will be imposed for facsimile checks that are sent in any mailing, including that the check itself must carry a statement that it is nonnegotiable and has no cash value.

- The Postal Service will be granted subpoena authority for investigations regarding deceptive mailings and nationwide, and it will be granted temporary restraining order authority to stop deceptive mailings. Civil penalties will be greatly increased for deceptive mailings, including that penalties of up to \$1 million may be imposed for a first offense and up to \$2 million may be imposed for a violation of an existing order.

- Any promoter that sends sweepstakes mailings or skill contest mailings will be required to provide either a toll-free number or an address for consumers to use to request the removal of their names from future mailings. Promoters will have to honor any such requests within 35 days.

Those favoring passage contended:

This legislation will establish tough Federal standards for sweepstakes and other promotional mailings. These mailings will be required to clearly inform consumers that a purchase is not necessary to win the contest and that a purchase will not increase one's chances of winning. In addition to these important consumer protections, the bill will confer additional investigative and enforcement authority on the U.S. Postal Service and will authorize civil fines of up to \$2 million for companies that violate the consumer protection standards. Other provisions in the bill will stop mailings that are deliberately meant to give the impression that they are official Government documents and will give consumers a means of getting their names off of mass-mailing lists for sweepstakes.

The promotional mailing industry generates an enormous volume of mail that reaches the mailboxes of millions of Americans. In fact, the four major sweepstakes companies alone flood Americans with more than 1 billion solicitations every year. Those four companies--American Family Publishers, Publishers Clearinghouse, Time, Inc., and Reader's Digest--run legitimate sweepstakes in the sense that they award prizes, deliver merchandise orders, and do not seek to conceal their identities. However, they also engage in practices that are deceptive for many consumers, and those practices must stop. A common misconception that consumers have is that they need to make a purchase in order to have a chance to win a prize. Another common misconception is that making a purchase increases one's chance of winning a prize. Over 40-percent of senior citizens, in fact, believe the latter to be the case, even though it would be illegal if it were. In addition to the four large companies, there are many lesser known, fly-by-night sweepstakes operators that engage in a number of other misleading practices, such as operating a single sweepstakes under several different names, so that unsuspecting consumers are tricked into making purchases not once, but multiple times, for the chance of winning the same prize.

This bill will stop misleading sweepstakes solicitations. It has the support of senior citizens groups, consumer groups, and the United States Postal Service. We urge our colleagues to support it as well.

No arguments were expressed in opposition to passage.